

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIN WARREN SIZEMORE,

Defendant.

Case No. 6:21-cr-00138-RAW-1

FIFTH MOTION IN LIMINE

Defendant Devin Sizemore, by and through his assigned counsel, and pursuant to Local Criminal Rule 12.1(E), moves this Court for an order precluding the government from introducing, eliciting, or referring in any way to Defendant's Rule 12.2 notice.

Although the government has not yet told defense counsel how it may seek to use the 12.2 notice, Defendant files this motion early out of an abundance of caution to inform the Court that the use of the 12.2 notice may be an issue at trial.

The government should be barred from introducing or eliciting any evidence or argument that implies or suggests that the Defendant accepts guilt or factual responsibility for this case or that in any way

shifts the burden of proof in its case in chief based on a possible 12.2 defense, not yet raised by the defense. *See* Fed. R. Crim. P. 12.2(e).

February 21, 2022

Respectfully submitted,

/s/

Lisa A. Peebles
Federal Public Defender
4 Clinton Square, 3rd Floor
Syracuse, NY 13202
(315) 701-0080
Lisa_Peebles@fd.org

Certificate of Electronic Filing and Service

This is to certify that on this 21st day of February, 2022, I caused the foregoing instrument to be filed with the Clerk of the Court using the ECF System for filing, with electronic service to be made via CM/ECF to Rebecca Dunnan, AUSA, and to all counsel of record. To counsel's knowledge, there are no non-ECF registrants who are counsel in this case.

/s/

Lisa A. Peebles
Federal Public Defender